

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RAYMOND REDLICH and
CHRISTOPHER OHNIMUS,

Plaintiffs,

v.

CITY OF ST. LOUIS, a
municipality and political
subdivision of the State of
Missouri,

Defendant.

Case No. 4:19-cv-00019

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF – CIVIL RIGHTS
[42 U.S.C. § 1983]

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

“I was hungry, and you gave me something to eat; I was thirsty, and you gave me something to drink; I was a stranger, and you invited me in; naked, and you clothed me; I was sick, and you visited me; I was in prison, and you came to me. ...Truly, I say to you, to the extent that you did it to one of these brothers of mine, even the least of them, you did it to me.” – Gospel of Matthew 25:35-36, 40

INTRODUCTION

1. On October 31, 2018, a police officer employed by the City of St. Louis (“the City”) gave the Plaintiffs, Raymond Redlich (“Redlich”) and Christopher Ohnimus (“Ohnimus”) City Court Summonses because, in an effort to fulfill their religious obligation to provide food to the hungry, they were sharing bologna sandwiches with homeless persons on the streets of the City.

2. Although the summonses did not specify what ordinance the Plaintiffs had allegedly violated, the police officer who issued the citations also provided the

1 Plaintiffs with two documents that led the Plaintiffs to believe that they were accused
2 of violating St. Louis City Code § 11.42.230, Chapter 9 (“the Temporary Food Service
3 Ordinance”).

4 3. This lawsuit seeks to preserve and to vindicate constitutional rights
5 protected by the First and Fourteenth Amendments to the U.S. Constitution,
6 including the free exercise of religion, the freedom of expression, the freedom of
7 association, and the equal protection of the laws; the Plaintiffs also seek the
8 protection of their rights of conscience as guaranteed by Article I, § 5 of the Missouri
9 Constitution and Missouri’s Religious Freedom Restoration Act, Mo. Rev. Stat. §
10 1.302.

11 4. The Plaintiffs are bringing this suit not only on their own behalf, but on
12 behalf of all other persons who, without any commercial motivation, wish to share
13 food with the hungry.

14 JURISDICTION AND VENUE

15 5. This Court has jurisdiction because this action arises under the First and
16 Fourteenth Amendments to the United States Constitution. 28 U.S.C. § 1331 (federal
17 question).

18 6. The Plaintiffs also raise claims under Article I, § 5 of the Missouri
19 Constitution and the Missouri Religious Freedom Restoration Act, Mo. Rev. Stat. §
20 1.302; this Court has jurisdiction over those claims as well. 28 U.S.C. § 1367
21 (supplemental jurisdiction).

22 7. This Court has jurisdiction over this matter pursuant to Section 1 of the
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1 Civil Rights Act of 1871. *See* 42 U.S.C. §§ 1983, 1988; 28 U.S.C. § 1343(a).

2 8. This Court is empowered to grant the relief the Plaintiffs request pursuant
3 to the federal Declaratory Judgment Act. *See* 28 U.S.C. §§ 2201 and 2202.

4 9. The United States District Court for the Eastern District of Missouri is the
5 proper venue for this case pursuant to 28 U.S.C. § 1391(b)(2) because the events
6 giving rise to the Plaintiffs' claims occurred in St. Louis City.

7 10. Venue is proper in the Eastern Division pursuant to Local Rule 3-2.07.

8 **PARTIES**

9 11. Plaintiff Redlich is a citizen of the United States and a citizen of Missouri
10 who lives and works in St. Louis City.

11 12. Plaintiff Ohnimus is a citizen of the United States and a citizen of Missouri
12 who lives and works in St. Louis City.

13 13. Defendant City of St. Louis, is a municipality and political subdivision of
14 the State of Missouri.

15 **FACTS**

16 14. Redlich is a Christian who believes it is his obligation as a follower of Jesus
17 Christ to feed the hungry, to give drink to the thirsty, and to provide love, compassion,
18 and company to the suffering. *See, e.g.,* Gospel of Matthew 25:31-46.

19 15. In obedience to the demands of his faith and his conscience, Redlich has
20 for years sought out neighbors in need of food, drink, companionship, and warmth so
21 that he could address their needs and so that, through the acts of providing food,
22 drink, blankets, hats, gloves, companionship, and prayer, he might communicate to
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1 the recipients that God loves and values them, regardless of their circumstances.

2 16. As a result of Redlich's ministry, he has developed friendships with many
3 of those he has served, and his efforts have also occasionally resulted in the persons
4 he has served coming to share Redlich's faith and choosing to become Christians.

5 17. Ohnimus himself has previously experienced hard times, and he has
6 welcomed the food, drink, fellowship, and encouragement that Redlich and others
7 freely provided.

8 18. The receipt of food, drink, fellowship, and encouragement from Redlich and
9 others eventually led Ohnimus to begin serving others in the same way he had once
10 been served.

11 19. Ohnimus also believes it is his religious obligation as a follower of Jesus
12 Christ to feed the hungry, to give drink to the thirsty, and to provide love, compassion,
13 and company to the suffering.

14 20. Ohnimus uses the acts of providing food, drink, blankets, hats, gloves,
15 companionship, and prayer, to communicate to the recipients that God loves and
16 values them regardless of their circumstances.

17 21. On October 31, 2018, Redlich and Ohnimus were engaging in religious
18 practice, communicating God's love to homeless persons by providing them with
19 water, bologna sandwiches, prayer and fellowship on the streets of the City.

20 22. Redlich and Ohnimus were sharing these bologna sandwiches just hours
21 before thousands of other St. Louisans would celebrate Halloween by sharing food at
22 parties and handing out goodies to trick-or-treaters.

1 23. For some of the people with whom Redlich and Ohnimus interacted, the
2 bologna sandwiches they received would be the only food they would get to eat that
3 day.

4 24. Stephen Ogunjobi (“Ogunjobi”), an officer of the St. Louis Metropolitan
5 Police Department, observed Redlich and Ohnimus sharing food with homeless
6 people, told them that what they were doing was unlawful, and issued each of them
7 a City Court Summons to appear at a specific date and time “to answer a complaint
8 information charging [them] with ‘operating w/o permit.’” A true and correct copy of
9 the summons issued to Redlich is attached to this complaint as Plaintiffs’ Exhibit 1.

10 25. Each summons stated that failure to appear in court at the specified date
11 and time might result in the issuance of a warrant for their arrest.

12 26. Each summons was issued under the color of law.

13 27. Although the summonses did not specify any ordinance alleged to have
14 been violated, Ogunjobi gave Redlich and Ohnimus a flyer entitled “Requirements for
15 Operating a Temporary Food Establishment” and a two-page document entitled
16 “Feeding the Homeless.” True and correct copies of each of these documents are
17 attached to this complaint as Plaintiffs’ Exhibits 2 and 3.

18 28. The “Feeding the Homeless” document expressly states that “Food
19 prepared in a private home may not be used or offered for human consumption to the
20 public” and that anyone distributing food must obtain either a “temporary food
21 service establishment” permit (which itself requires the applicant to have a separate
22 “vendor’s permit”) or a “permanent food service establishment” permit (which
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1 requires the applicant to have a business license and to submit to an inspection).

2 29. The document entitled “Requirements for Operating a Temporary Food
3 Establishment” expressly states “Foods prepared in a home or other facility not under
4 inspection are prohibited,” and it states that any person distributing food must have
5 present “three food-grade washtubs/containers and [a] 5-gallon or larger container of
6 potable water,” a “waste receptacle,” “a handwashing facility,” and “hair coverings.”

7 30. Upon information and belief, the documents the officer provided Redlich
8 and Ohnimus reflect the City’s official position, limiting the circumstances under
9 which residents may lawfully share food with their neighbors on the streets of the
10 City.

11 31. Upon information and belief, the City bases its official position on the
12 Temporary Food Service Ordinance.

13 32. Upon information and belief, the City’s police officers have over the past
14 few years given citations to a number of persons other than the Plaintiffs for the
15 alleged offense of unlawfully sharing food with homeless persons in a manner that
16 did not comply with the City’s restrictions.

17 33. The Plaintiffs *do not* dispute the City’s interpretation of the Temporary
18 Food Service Ordinance as requiring anyone who would share food with homeless
19 persons to obtain one or more permits and to comply with the same regulations the
20 City imposes on food service professionals.

21 34. The Plaintiffs *do not* allege that the Temporary Food Service Ordinance is
22 facially unconstitutional; they concede that it may constitutionally be applied against
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1 individuals engaged in the commercial preparation and distribution of food to the
2 public.

3 35. Instead, the Plaintiffs contend that as applied to them and to others
4 similarly situated the Temporary Food Service Ordinance unconstitutionally and
5 unlawfully restricts their free exercise of religion, their freedom of expression, their
6 freedom of association, their rights of conscience, and denies them equal protection of
7 the laws.

8 36. Redlich and Ohnimus share food with their neighbors on the street several
9 days out of each week, using their food-sharing efforts to share God's love with scores
10 of St. Louisans each week.

11 37. The foods that Redlich and Ohnimus share with the hungry on the streets
12 of the City are frequently donated by local churches; they are sometimes, though not
13 always, prepared in facilities subject to inspection by the City.

14 38. In addition to the food, water, clothing, and blankets that Redlich and
15 Ohnimus provide, they also provide faith-related written material such as
16 information sheets, gospel tracts, and copies of sermons.

17 39. Redlich and Ohnimus believe that if they are not allowed to share food
18 with their neighbors, it will dramatically impact not only the performance of their
19 religious duty and the number of people willing to receive their message, but it will
20 also make their message of love and concern for those in need seem less sincere; they
21 believe that blankets and water are not an adequate substitute for food when it comes
22 to demonstrating love and concern for the recipients' well-being.

40. The Plaintiffs do not have the resources to obtain the permits the City says are required to share food with the homeless, nor do they have the resources to obtain and carry with them the equipment the City requires of those operating a permitted Temporary Food Establishment.

41. If the Plaintiffs were limited to sharing foods prepared in facilities subject to inspection by the City, their ability to share food with the needy would, at best, be severely limited and would, at worst, be eliminated altogether.

42. Many of the people with whom the Plaintiffs share food have physical or psychological conditions that would prevent them from going to a permitted Food Service Establishment.

43. Redlich and Ohnimus also believe that their faith requires them to ***seek out*** those in need and serve them ***where they are found***, not to require the hungry to come to a centralized location before they can receive the food they need.

CLAIMS FOR RELIEF

COUNT I

Free Exercise of Religion –

First and Fourteenth Amendments

44. The Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each allegation was set forth herein.

45. The First Amendment to the U.S. Constitution, made applicable to state and local governments through the Fourteenth Amendment, forbids the government to prohibit the free exercise of religion.

1 46. The City has acted under the color of law to interfere with the Plaintiffs'
2 freedom to carry out an act required by their religious convictions, thus violating the
3 Free Exercise Clause of the First Amendment.

4 47. Specifically, the City has interpreted and enforced the Temporary Food
5 Service Ordinance in such a way that it would be unlawful for the Plaintiffs to fulfill
6 their religious obligation to share food with hungry persons on the streets of St. Louis
7 because the Plaintiffs cannot reasonably comply with the City's permitting and
8 regulatory requirements.

9 48. Neither Redlich nor Ohnimus could afford to purchase food prepared at
10 one of the City's "approved" facilities (which are primarily restaurants and grocery
11 stores) in quantities sufficient to serve the number of neighbors who need their help.

12 49. The facts of this case show that the Plaintiffs face a real, concrete threat
13 of arrest and prosecution if they continue to fulfill their religious obligation to share
14 food with hungry persons on the streets of St. Louis.

15 50. The U.S. Supreme Court has previously held, in *Employment Division v.*
16 *Smith*, 494 U.S. 872 (1990), that, so long as a law is religiously-neutral and generally
17 applicable, the Free Exercise Clause does not require courts to apply heightened
18 judicial scrutiny to that law even if it infringes upon a person's religious practice.

19 51. The Plaintiffs in this case expressly contend that *Employment Division*
20 was incorrect on this point and that a proper understanding of the Free Exercise
21 Clause requires courts to subject even a religiously-neutral, generally applicable law
22 to the strict scrutiny insofar as that law's application makes it unlawful for a person
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1 to engage in a practice required by their religion or requires a person to perform an
2 act prohibited by their religion; the Plaintiffs acknowledge that this Court is bound
3 to follow the U.S. Supreme Court's holding in *Employment Division*, but they wish to
4 preserve for review the question of whether *Employment Division* should be
5 overturned.

6 52. But even if *Employment Division* was correctly decided, the majority
7 opinion in that case suggests that a religiously-neutral, generally applicable law will
8 be subject to strict scrutiny if it restricts a religious practice that is also linked with
9 another constitutionally-protected freedom, such as the freedom of speech or the
10 freedom of association. *See Employment Division*, 494 U.S. at 881-82.

11 53. Consequently, even if strict scrutiny might not be warranted by the mere
12 fact that the City is applying the Temporary Food Service Ordinance in a way that
13 burdens the Plaintiffs' religious duty to share food with the hungry, this Court should
14 nonetheless apply strict scrutiny because (as described below) the restricted religious
15 act is inextricably tied to the Plaintiffs' freedom of expression and freedom of
16 association.

17 54. When courts apply strict scrutiny, the challenged law is presumed to be
18 unconstitutional and the government can only justify the infringement of
19 constitutional freedoms by showing that the law advances a compelling government
20 interest and that the law is narrowly tailored so that it does not prohibit more
21 constitutionally-protected liberty than is necessary to serve that compelling
22 government interest.

55. In this case, the City cannot show that the Temporary Food Service Ordinance is narrowly tailored; the City's application of the Temporary Food Service Ordinance to the Plaintiffs reveals that the ordinance prohibits far more constitutionally-protected conduct than is necessary to serve any compelling government interest.

56. Unless this Court declares that the Temporary Food Service Ordinance is unconstitutional as applied to the Plaintiffs and to persons similarly situated, the Plaintiffs will suffer great and irreparable harm due to the deprivation of their freedom to fulfill their religious obligation to share food with the hungry persons they encounter on the streets of St. Louis.

COUNT II

Freedom of Expression—

First and Fourteenth Amendments

57. The Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each allegation was set forth herein.

58. Constitutional protection for the freedom of speech extends beyond the spoken or written word, reaching expressive conduct as well.

59. Many people in our society treat those living on the streets as nuisances to be ignored or avoided rather than as fellow human beings worthy of respect, time, attention, and compassion.

60. In addition to being an act required by their faith, Redlich and Ohnimus believe that sharing food with those living on the streets sends a crucial message,

1 both to the recipient of the food and to the surrounding community, that the recipient
2 is a loved and valued member of society; Redlich and Ohnimus use the sharing of food
3 to build relationships with their neighbors living on the street and to communicate
4 their message about God’s love and concern for even the dispossessed and “the least
5 of these.”

6 61. The Temporary Food Service Ordinance restricts the Plaintiffs’ freedom of
7 expression because preparing food for others and sharing it with them is a uniquely
8 powerful way to communicate love for and solidarity with the food’s recipients—
9 particularly when those recipients may feel unwanted by the community that
10 surrounds them.

11 62. In addition to the message the Plaintiffs convey through the act of sharing
12 food with those in need, the Plaintiffs also distribute gospel tracts and written
13 sermons alongside the food they share, amplifying the expressive nature of the act.

14 63. The Eleventh Circuit Court of Appeals recently held that the act of publicly
15 sharing food with the homeless—particularly in conjunction with the distribution of
16 literature—is an expressive act within the protections of the First Amendment. *See*
17 *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 901 F.3d 1235, 1242
18 (11th Cir. 2018).

19 64. As the Eleventh Circuit noted, “the significance of sharing meals with
20 others dates back millennia,” and the court specifically made reference to Jesus’s
21 sharing of meals with tax collectors and sinners “to demonstrate that they were not
22 outcasts in his eyes,” as well as to the way that our Thanksgiving holiday centers
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1 upon the idea that sharing food is way of expressing thanks for blessings. *Id.* at 1243.

2 65. This Court should subject the City's application of the Temporary Food
3 Service Ordinance to strict scrutiny under the hybrid rights theory endorsed in
4 *Employment Division*, because the Plaintiffs' sharing of food is both an exercise of
5 religion and an expressive act.

6 66. However, if this Court declines to apply strict scrutiny, it must apply the
7 test set forth in *U.S. v. O'Brien*, 391 U.S. 367 (1968), to determine if the City's
8 application of the Temporary Food Service Ordinance improperly restricts the
9 Plaintiffs' freedom of expression.

10 67. The *O'Brien* test requires the government to assert a substantial
11 government interest, but (upon information and belief) the City's interest in
12 prohibiting residents from freely sharing food with the homeless is rooted in the City's
13 assumption that controlling where and under what circumstances people may
14 lawfully assist others in need will allow the City to steer homeless persons into parts
15 of town where their existence will be less noticeable; trying to make the homeless less
16 noticeable is not even a legitimate governmental interest, much less a "substantial"
17 government interest.

18 68. Even if the City contends that its application of the Temporary Food
19 Service Ordinance is supported by an interest in safeguarding the health and safety
20 of homeless persons, the City would still fail the *O'Brien* test because it cannot
21 produce evidence that those living on the City's streets are better off going hungry
22 rather than eating food freely shared with them by people who sincerely care about
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1 their health and comfort.

2 69. Because the City has no legitimate interest in trying to make the homeless
 3 less noticeable, and because denying homeless persons access to food prepared and
 4 freely offered by those who care about their health and comfort does not advance any
 5 interest the City might have in safeguarding the health and safety of homeless
 6 persons, the City cannot justify its application of the Temporary Food Service
 7 Ordinance against the Plaintiffs and others who wish to engage in the expressive act
 8 of sharing food with the homeless.

9 70. Unless this Court declares that the Temporary Food Service Ordinance is
 10 unconstitutional as applied to the Plaintiffs and to persons similarly situated, the
 11 Plaintiffs will suffer great and irreparable harm due to the deprivation of their
 12 freedom to engage in the expressive act of sharing food with hungry persons they
 13 encounter on the streets of St. Louis.

14 **COUNT III**

15 **Equal Protection of the Laws and Freedom of Association—**

16 **First and Fourteenth Amendments**

17 71. The Plaintiffs incorporate by reference the allegations made in each
 18 preceding paragraph as if each allegation was set forth herein.

19 72. The Equal Protection Clause of the Fourteenth Amendment provides that
 20 “no state shall deny to any person within its jurisdiction the equal protection of the
 21 laws;” in other words, the law should treat all similarly-situated persons alike.

22 73. Where the government applies a law or policy in such a way that groups of
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1 people are treated differently, courts must evaluate whether that differential
2 treatment violates the Equal Protection Clause.

3 74. Courts apply strict scrutiny where the differential treatment under the law
4 is based on a suspect classification or affects a fundamental right.

5 75. The City's policy of applying the Temporary Food Service Ordinance to
6 prohibit the non-commercial sharing of food with homeless persons creates a
7 differential treatment that affects the Plaintiffs' freedom of association—a
8 fundamental right protected under the First Amendment and applied to state and
9 local governments through the Fourteenth Amendment.

10 76. It is extraordinarily common for people to share with each other food
11 prepared in homes or other locations that have not been given City permits or
12 inspections; residents acting without a City permit might bring home-prepared food
13 to each others' houses, to picnics in a park, to backyard barbeques, to celebrations at
14 a school, to meetings at an office, to potluck dinners at a church, or to tailgate parties
15 outside of sporting events.

16 77. The City has not contended that sharing home-prepared food in any of
17 these contexts might run afoul of the Temporary Food Service Ordinance.

18 78. Instead, the City has focused on applying the Temporary Food Service
19 Ordinance in such a way that it is unlawful for residents freely to share food with
20 homeless persons—thus penalizing those residents on the basis of those with whom
21 they choose to associate.

22 79. Had the Plaintiffs chosen to share food in a neighbor's home or backyard,
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1 at a school, church, or office, or outside of a sporting event, the City would not have
2 interfered. It is only because the Plaintiffs chose to share food with hungry neighbors
3 who are living on the streets that the City issued them summonses and ordered them
4 to show up in court or to face arrest.¹

5 80. Because the City's application of the Temporary Food Service Ordinance
6 applies the law differently based on the persons with whom the Plaintiffs have chosen
7 to associate, this Court must apply strict scrutiny when evaluating the Plaintiffs'
8 Equal Protection claim.

9 81. The City's selective application of the law against those sharing food with
10 the homeless cannot survive strict scrutiny because the policy does not advance any
11 compelling government interest and the policy is not narrowly tailored because it
12 prohibits far more constitutionally-protected liberty than is necessary to serve any
13 compelling interest the City might invoke.

14 82. In the alternative, the City's application of the Temporary Food Service
15 Ordinance also violates the Equal Protection Clause because it denies one group of
16 residents—homeless persons—the freedom to make choices that all other persons
17 enjoy when it comes to accepting food freely offered by others.

18 83. Residents freely offered home-prepared food while associating with people
19 in any of the contexts noted in Paragraph 79 would be free to decide for themselves
20 whether to accept and eat the food; the City's policy treats homeless people like
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22 ¹ It was only after the Plaintiffs had both arrived at the City Court and waited nearly an hour for their
23 citations to be addressed that the City Attorney told them that he would not pursue the case against them.

1 second-class citizens by denying them the freedom to make that choice.

2 84. The City cannot show any evidence that denying homeless people the
3 freedom to choose whether they will accept and eat food freely offered to them on the
4 streets advances any legitimate governmental interest.

5 85. Unless this Court declares that the Temporary Food Service Ordinance is
6 unconstitutional as applied to the Plaintiffs and to persons similarly situated, the
7 Plaintiffs will suffer great and irreparable harm due to the deprivation of the equal
8 protection of the laws which has resulted because of their association with the hungry
9 persons they encounter on the streets of St. Louis.

10 **COUNT IV**

11 **Rights of Conscience—**

12 **Missouri Constitution Article I, Section 5**

13 86. The Plaintiffs incorporate by reference the allegations made in each
14 preceding paragraph as if each allegation was set forth herein.

15 87. Sharing food with those in need is not just an exercise of religion, it is an
16 act that Redlich and Ohnimus feel compelled to perform as a matter of conscience.

17 88. The Missouri Constitution recognizes protections for citizens' "rights of
18 conscience" that go above and beyond the protections the First Amendment
19 acknowledges for the "free exercise of religion," stating "[t]hat all men and women
20 have a natural and indefeasible right to worship Almighty God according to the
21 dictates of their own consciences; [and] that no human authority can control or
22 interfere with the rights of conscience" other than to prevent "practices inconsistent
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1 with the good order, peace or safety of the state, or with the rights of others.” *Compare*
 2 U.S. Const. Amendment I *with* Mo. Const. Art. I, § 5.

3 89. The Plaintiffs contend that even if the First and Fourteenth Amendments
 4 do not require courts to apply strict scrutiny to the City’s application of the
 5 Temporary Food Service Ordinance, the City’s application of this ordinance against
 6 the Plaintiffs has nonetheless improperly interfered with their rights of conscience.

7 90. Because the City cannot show that freely sharing food with homeless
 8 persons is “inconsistent with the good order, peace or safety of the state, or with the
 9 rights of others,” Article I, § 5 of the Missouri Constitution prohibits the City from
 10 interfering with that act.

11 91. Unless this Court declares that the Temporary Food Service Ordinance is
 12 unconstitutional as applied to the Plaintiffs and to persons similarly situated, the
 13 Plaintiffs will suffer great and irreparable harm due to the City’s unjustified
 14 interference with their rights of conscience, which compel the Plaintiffs to share food
 15 with the hungry persons they encounter on the streets of St. Louis.

16 COUNT V

17 **Missouri Religious Freedom Restoration Act—**

18 **Mo. Rev. Stat. § 1.302**

19 92. The Plaintiffs incorporate by reference the allegations made in each
 20 preceding paragraph as if each allegation was set forth herein.

21 93. In 2003 the Missouri General Assembly passed the Missouri Religious
 22 Freedom Restoration Act (RFRA), which prohibits any government authority from
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1 restricting a person's free exercise of religion unless (1) the restriction is generally
2 applicable and does not discriminate against religion or among religions **and** (2) the
3 governmental authority demonstrates that application of the restriction to the person
4 is "**essential to further a compelling governmental interest, and is not unduly**
5 **restrictive considering the relevant circumstances.**" Mo. Rev. Stat. § 1.302.1.
6 (emphasis added)

7 94. RFRA specifies that, as used in that section, "exercise of religion" shall be
8 defined as an act or refusal to act that is substantially motivated by religious belief,
9 whether or not the religious exercise is compulsory or central to a larger system of
10 religious belief." Mo. Rev. Stat. § 1.302.2.

11 95. For the reasons stated above, the City's application of the Temporary Food
12 Service Ordinance restricts the Plaintiffs' freedom to perform an act—sharing food
13 with the homeless—that is substantially motivated by religious belief.

14 96. RFRA specifies that, as used in that section, "demonstrates" means meets
15 the burden of going forward with the evidence and of persuasion." Mo. Rev. Stat. §
16 1.302.3.

17 97. The City cannot present evidence sufficient to show that its application of
18 the Temporary Food Service Ordinance is "essential to further a compelling
19 governmental interest, and is not unduly restrictive considering the relevant
20 circumstances."

21 98. Unless this Court declares that the Temporary Food Service Ordinance
22 violates RFRA as applied to the Plaintiffs and to persons similarly situated, the
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1 Plaintiffs will suffer great and irreparable harm due to the deprivation of their
2 freedom to exercise their religion by sharing food with the hungry persons they
3 encounter on the streets of St. Louis.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, the Plaintiffs respectfully request that this Court:

6 A. Issue a declaration that St. Louis City Code § 11.42.230, Chapter 9, violates
7 the First and Fourteenth Amendments of the U.S. Constitution as applied
8 to the Plaintiffs and others similarly situated;

9 B. Issue a declaration that St. Louis City Code § 11.42.230, Chapter 9, violates
10 Article I, Section 5 of the Missouri Constitution as applied to the Plaintiffs
11 and others similarly situated;

12 C. Issue a declaration that St. Louis City Code § 11.42.230, Chapter 9, violates
13 Mo. Rev. Stat. § 1.302 as applied to the Plaintiffs and others similarly
14 situated;

15 D. Issue an injunction prohibiting the City from enforcing St. Louis City Code
16 § 11.42.230, Chapter 9, against the Plaintiffs and others similarly situated;

17 E. Award Plaintiffs' attorney fees and costs; and

18 F. Provide all further legal and equitable relief that the Court may deem just
19 and proper.

1 Dated this 8th day of January, 2019.

Respectfully submitted,

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